



Waukesha County  
Criminal Justice Collaborating Council  
Evidence-Based Decision Making Victim Issues Workgroup  
Monday, February 15, 2016

**Team Members Present:**

DOC Community Corrections Field Supervisor Marla Bell	Clerk of Circuit Court Kathy Madden
Victim Witness Coordinator Jen Dunn	Public Defender Kelsey Morin
DOC Victim Services Director Stephanie Hove	Judge Michael Aprahamian (arrived 12:12 p.m.)

**Others Present:** CJCC Coordinator Rebecca Luczaj, Administrative Specialist Alison Ries

Bell and Dunn called the meeting to order 12:07 at p.m.

**Approve Minutes from January 29, 2016 Meeting**

Motion: Morin moved, second by Bell to approve the minutes of January 29, 2016. Motion carried 5-0.

**Begin Discussion on Current Restitution Process, Continue to Discuss Data Availability & Workgroup's Proposed Change Strategy**

Dunn distributed the workgroup's mission and goal statement which included two potential goals for the committee to review.

Judge Aprahamian arrived at 12:12 p.m.

Dunn stated the next step for the workgroup is to analyze current practices, examine what needs to be looked at and then decide what data is needed.

The workgroup discussed in detail the current process of restitution collection. Dunn stated Victim Witness starts working right away with victims on amount of damages for restitution (getting receipts, etc.) and sends them the required initial information including a form for them to itemize their losses. If victims have already received payment from Crime Victim Compensation (CVC), restitution will be re-paid to CVC first. Responding to Luczaj's question, Dunn stated CVC is a state program that victims may apply for which helps pay for their unreimbursed eligible expenses resulting from crime. VW will then complete a restitution summary including dates the information was provided and to whom, and communicate the information to the prosecutors who then report the information in court. Dunn reported the issues that arise are in the communication with Probation and Parole (P&P) and victims who are not receiving restitution because offenders are incarcerated. Responding to Hove's question, Madden stated the court has 60 days from the date of sentencing to determine/set restitution. In some cases, however, it can be held open.

Responding to Morin's question, Bell replied if a good faith effort is not made by an offender to pay the ordered restitution prior to supervision/probation ending, DOC could extend or revoke probation. For continued non-payment of restitution, a civil judgment may then be issued. Civil judgement payments are paid to the Clerk of Courts, not the victim. The court then will pass the funds on to the victim. Madden stated the civil judgement will be transferred to the victim if they choose to do their own collecting of funds. Dunn questioned if funds ever just sit because victims are unaware they have to transfer the judgement at the Clerk's office in order to do their own collecting. Madden replied by stating the only time funds aren't dispersed is when a victim can't be located. In the event a victim is unable to be located, an aggressive search

is conducted by the department to locate the victim. After 2 years and if the victim is still unable to be located, the unpaid funds are forfeited to the Treasurer's office.

Dunn suggested a better way to get all information upfront is to create a supplemental form/affidavit for victims to submit as an addendum to the JOC containing victim information and stating clearly where monies are to go. Victim address/location is necessary because monies can't be paid out if the victim is unable to be located. Morin felt that offenders should be able to see what their restitution is paying for. Bell questioned the confidentiality of the form. Madden suggested making it a confidential addendum or not include it as part of the court document at all and just use it as a method of exchanging information between departments. Dane County is currently using this type of form. Hove will contact Dane County for a copy of the form and inquire about how they handle confidentiality. Discussion was held regarding "Joint and Several" cases and if the form would work for that type of order and what other states do. Responding to Luczaj's question, Bell explained that "Joint and Several" is when there are multiple offenders ordered to pay restitution for the same offense.

Dunn stated one clear problem is communication of restitution information between VW and the court and, VW and P&P. Sometimes the restitution summary and victim impact statements are not being received in a timely manner and/or sometimes they are not available prior to sentencing. VW and P&P communication can be very cumbersome after sentencing because what has been ordered at sentencing can be different from the initial restitution summary. Dunn stated that even though VW sends the restitution summary, they are still being requested 3-4 times. Aprahamian stated that approximately 90% of restitution hearings do not happen because they are stipulated and/or because witnesses/victims are not present or well prepared. Aprahamian suggested having victims prepare an affidavit early in the case so they don't have to attend the restitution hearing. This would also eliminate potential re-victimization. Responding to Morin's comment, Aprahamian stated the affidavit will work for all cases unless there is good cause for the victim to show up.

Hove updated the workgroup on a bill that is currently in the legislature relating to restitution, which puts restitution at the top of the list for payment by offenders. She reported the bill would not allow DOC to collect an administrative fee until restitution is paid in full; will allow DOC to obtain a court order to withhold a portion of any wages earned while the offender is in prison to pay restitution; and will allow the offender's state tax refund to be intercepted and used as payment for restitution. Hove stated another bill currently in the legislature would prevent the DOC from revoking anyone for non-payment of restitution.

The workgroup discussed the consequences for non-payment of restitution by offenders. Non-payment can cause an offender to have probation revoked. Some offenders are court-ordered on probation specifically to collect restitution. Bell stated the DOC could extend supervision of offenders if they do not pay. The workgroup agreed that revocation for non-payment means the offender is unable to work; therefore, no restitution could be collected and paid to victims, which is not beneficial.

Aprahamian left the meeting at 1:01 p.m.

Madden stated 90 days prior to discharge from the DOC, the Clerk of Courts is notified of the restitution order, the amount paid and any outstanding balance. Madden stated a letter is mailed to the offender indicating they have 10 days to pay the balance or they will be referred to DOA Collections. Bell suggested someone from Collections come to a meeting and explain their procedure of collecting. Madden will contact someone

from DOA Collections to present at the next meeting. In response to Luczaj's question, Bell stated no information is provided to the department after a civil judgement is made regarding payment. Madden stated that information is entered in to CCAP immediately but she will verify if the restitution civil judgement is tied to the case. Morin questioned whether there is still an option of online payment after the offender is sent to collections. Madden will follow up on this.

**Discuss Next Steps & Set Date for Next Meeting**

The workgroup agreed to bi-weekly recurring Friday meetings. The next meeting will be Friday, March 4<sup>th</sup> at 12:00 p.m.

The meeting adjourned at 1:40 p.m.